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Conference

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

19 CR 850 (JSR)

5 PARKER H. PETIT and WILLIAM
6 TAYLOR,

7 Defendants.

-----x

8 New York, N.Y.
9 December 4, 2019
10 11:15 a.m.

11 Before:

12 HON. JED S. RAKOFF,

13 District Judge

14 APPEARANCES

15 GEOFFREY S. BERMAN

16 United States Attorney for the
Southern District of New York

17 EDWARD IMPERATOR

18 DAVID TRACER

SCOTT HARTMAN

Assistant United States Attorney

19 FRESHFIELDS

20 Attorneys for Defendant Petit

21 ERIC BRUCE

22 QUINN EMANUEL

Attorneys for Defendant Taylor

23 WILLIAM BURCK

WILLIAM WEINREB

24 MICHAEL CARLINSKY

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1 (Case called)

2 MR. IMPERATORE: Good morning, your Honor.

3 Edward Imperatore, David Tracer and Scott Hartman, for
4 the government.

5 THE COURT: Good morning.

6 MR. BRUCE: Good morning, your Honor.

7 Eric Bruce, on behalf of Mr. Parker Petit, who is to
8 my right

9 THE COURT: Good morning.

10 MR. BURCK: Good morning, your Honor.

11 William Burck, with my colleagues Bill Weinreb and
12 Michael Carlinsky, for Mr. Taylor who is present, your Honor.

13 THE COURT: Good morning.

14 Before we get down to business so to speak, there's a
15 question of whether Mr. Taylor has waived any objection to
16 representation by Quinn Emanuel in light of the fact, so I
17 understand that Quinn Emanuel represented both defendants at an
18 earlier stage of these matters.

19 So let me ask Mr. Taylor, are you satisfied with the
20 services of Quinn Emanuel so far?

21 THE DEFENDANT: Yes, I was, your Honor.

22 THE COURT: Notwithstanding, their incredibly high --
23 (inaudible).

24 Are you aware that Quinn Emanuel previously
25 represented Mr. Petit in this matter as well as yourself?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Do you understand that the fact that Quinn
3 Emanuel previously represented Mr. Petit may mean that some
4 conceivable situations they might be forced to put his
5 interests above yours?

6 THE DEFENDANT: That is my understanding, sir.

7 THE COURT: Specifically, do you understand that if
8 Mr. Petit were to testify in this case and if Quinn Emanuel
9 would be limited in its ability to ask questions on
10 cross-examination that could be damaging to his credibility or
11 favorable to his defense but that might not be able to be asked
12 because of their prior representation; do you understand that
13 possibility exists?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Also, do you understand that Quinn Emanuel
16 may be limited in making certain arguments at trial on your
17 behalf because of their continuing duty to Mr. Petit,
18 notwithstanding, that they currently represent him; do you
19 understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you understand that Quinn Emanuel's
22 duty and loyalties to Mr. Petit may limit the firm's ability to
23 advise you regarding the merits and demerits of cooperating
24 with the government in this case; do you understand that
25 possibility exists?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Do you understand that more generally
3 there's just the possibility that their representation of you
4 may be in some way which may not even be foreseeable at this
5 time that might impact their ability to represent you and you
6 alone to the fullest extent; do you understand that possibility
7 exists?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Do you understand that in every criminal
10 case, including this one, you have a right to the assistance of
11 counsel whose loyalty to you is totally undivided; do you
12 understand you have that right?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Have you had the opportunity or do you
15 wish if you haven't had the opportunity, do you wish the
16 opportunity to consult with an independent counsel before
17 deciding whether or not to waive any conflict?

18 THE DEFENDANT: I have already, your Honor, this
19 morning.

20 THE COURT: Very good. And after considering all that
21 we've discussed, are you prepared to waive any conflict and do
22 you wish to continue with Quinn Emanuel as your attorney?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. The government provided me
25 with a litany of questions, not all of which I thought were

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1 appropriate. But is there any question that the government
2 wished me to ask that I haven't asked that you are dying to
3 have me ask?

4 MR. IMPERATORE: No, your Honor.

5 THE COURT: Very good. All right. So I think Quinn
6 Emanuel can continue as counsel for Mr. Taylor.

7 So let's turn to the arraignment. Let me ask each
8 defense counsel for respective parties whether their clients
9 have met and discussed with them the indictment in this case?

10 MR. BRUCE: Yes, we certainly have, your Honor.

11 MR. BURCK: Yes, your Honor, we have.

12 THE COURT: Do you wish to have the indictment read
13 again here in open court which would only take about two hours
14 or do you waive the public reading?

15 MR. BRUCE: We will waive its public reading.

16 MR. BURCK: We do also.

17 THE COURT: Do you wish a plea of not guilty be
18 entered at this time?

19 MR. BRUCE: Yes, your Honor. Thank you.

20 MR. BURCK: Yes, your Honor.

21 THE COURT: All right. So how long does the
22 government want to complete discovery?

23 MR. IMPERATORE: Your Honor, the government has
24 already produced a vast majority of discovery in this case and
25 made that production to the defendants late in the day

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1 yesterday. There is only a relatively small volume of
2 discovery that remains. Out of an abundance of caution we
3 would ask for two weeks. Although, I am confident that we can
4 produce it much more quickly than that.

5 THE COURT: That's fine. So that would be all
6 discovery to be completed by December 18. How long after that
7 do defense counsel want to make any motions?

8 MR. BRUCE: Your Honor, as you pointed out, I'm still
9 relatively new to the case having just come in, so I would
10 request six weeks after the completion of discovery to file
11 motions.

12 THE COURT: How many lawyers in your firm?

13 MR. BRUCE: In my firm there's quite a few, your
14 Honor.

15 THE COURT: Yes. And if your firm were hired to
16 defend a hostile takeover for example, that had to have
17 numerous depositions 24 hours hence, your firm would say "we
18 can do it". So why do you need six weeks?

19 MR. BRUCE: Your Honor, it's really for me personally
20 to review the materials and learn the case. Certainly, we have
21 the resources. Freshfields is a large firm as you know. So
22 that was my proposal. But we are committed to defending
23 Mr. Petit in this matter and if your Honor wanted to set a
24 shorter schedule, we'll meet that obviously.

25 THE COURT: OK.

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1 MR. BURCK: We'll defer to the Court.

2 THE COURT: All right. So I think and I do --

3 normally, I would give two weeks. We have the holidays and new
4 counsel. So I think four weeks is appropriate. So let's see.
5 So let's look at January 23 at two o'clock. That's the date
6 for the next conference. All motions have to be filed by
7 January 22, the day before. If those motions can be -- they
8 will be at that conference, we need to set a time for the
9 government to have a written response. We'll set it then and
10 normally that's going to set the trial date but I think maybe
11 you should set the trial date now.

12 How long a trial does the government have in mind?

13 MR. IMPERATORE: Your Honor, the government would
14 estimate its case to be in the ballpark of four weeks
15 approximately.

16 THE COURT: OK. And I know defense counsel are not
17 yet in the same position to assess.

18 MR. BRUCE: It's hard for me to assess, your Honor,
19 the government's case in chief but there are quite a few
20 documents. It does appear to be a document heavy case. So it
21 sounds to be in the ballpark.

22 MR. BURCK: Your Honor, we agree. And we do
23 anticipate to put on a defense, so we don't know yet how long
24 but probably a week or two.

25 MR. BRUCE: And the same for Mr. Petit. We will be

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1 putting on a defense case.

2 THE COURT: Yes. So my experience is that the
3 government usually overestimates by about two hundred percent.
4 Defense counsel may be somewhat similarly. But I would put
5 aside four weeks for the trial because if it goes longer, it
6 goes longer.

7 What days are counsel not available in May and June?

8 MR. BURCK: Your Honor, I have a trial in the Eastern
9 District of Virginia in Norfolk. It begins on May 27. The
10 government -- actually, the Court has basically said we need to
11 be done by June 22. I think it'll be done before that. But
12 that window isn't possible for me.

13 THE COURT: OK. How about counsel for the other
14 defendant?

15 MR. BRUCE: I'm available, your Honor.

16 THE COURT: All right. So let's look. Your case will
17 be over no matter what by end of May.

18 MR. BURCK: By the end of the third week of June, your
19 Honor.

20 THE COURT: When is the trial supposed to start.

21 MR. BURCK: May 27. Then it's supposed to be over,
22 the Court has told us that she expects the case to be finished
23 no later than June 22.

24 THE COURT: I see. OK. So Tuesday, July 7.

25 MR. IMPERATORE: I think we were hoping for an earlier

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1 trial date but --

2 THE COURT: If we're going to do it in July then I'm
3 going to advise all lawyers here that that date will be set in
4 stone if God forbid you get another trial, too bad. Your
5 partner will have to try the case. He's been around. Because
6 I agree with the government that's a lengthy period of time to
7 wait. I will accommodate you but I don't want anyone
8 suggesting any adjournment in this case. I will not entertain
9 such a suggestion.

10 Is that understood?

11 MR. BURCK: Yes, your Honor.

12 MR. BRUCE: Yes, your Honor.

13 THE COURT: Very good. All right. So July 7th and
14 pursuant to Section 3161 of Title 18, I will exclude from
15 calculations under the Speedy Trial Act all time between now
16 and July 7 finding such time is necessary for the drafting and
17 resolving of any motions and/or the accommodation of counsel's
18 other commitments and for those and other reasons, the best
19 interests of justice or for excluding such time substantially
20 outweigh the interests of the public and the defendant in a
21 speedy trial.

22 Anything else we need to take up today?

23 MR. IMPERATORE: Your Honor, the parties have agreed
24 upon a protective order for discovery and it has been signed by
25 the parties. I can hand it up to your Honor's deputy clerk.

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1 THE COURT: Yes.

2 (Pause)

3 THE COURT: All right. So this order appears in
4 proper form including the notation on page three in quotes
5 "remainder of page intentional left blank". And so I will sign
6 the case management -- excuse me -- the protective order and it
7 will be filed and therefore available to both sides.

8 OK. Anything else we need to take up today?

9 MR. WEINREB: Yes. Good morning, you Honor.

10 I'm William Weinreb. I and my colleague, Michael
11 Packard, have motions for admission pro hac vice pending before
12 the Court. We would ask that that be granted.

13 THE COURT: When did you submit this?

14 MR. WEINREB: We submitted them a couple days ago.
15 They have been reviewed and approved two days ago.

16 THE COURT: Yes. I'll take care of that later today.

17 MR. BRUCE: Your Honor, one more thing. Mr. Petit is
18 currently battling what his doctor refers to as high-grade
19 bladder cancer. So he's been battling it for about a year and
20 a half. He recently had cancerous lesions removed from his
21 bladder on October 7th. He is undergoing intravesical
22 immunotherapy and chemotherapy related to that. It's
23 impossible for any of us to predict what his health will be in
24 July but I just didn't want to spring this on the Court on the
25 first day of trial. There may well be doctor's appointments

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1 that would be obviously important to Mr. Petit's health during
2 that timeframe.

3 THE COURT: Yes. And I'm very glad you brought that
4 to my attention.

5 Where is he located?

6 MR. BRUCE: Outside of Atlanta, Georgia where his
7 treating physician is.

8 THE COURT: So to the extent I hope that everything
9 goes very well we don't have to worry about this but to the
10 extent that a doctor's appointment has to be scheduled for
11 after the trial starts or something like that, obviously, a
12 Monday or Friday would be preferable so that we don't interfere
13 with the jury's excessive --

14 MR. BRUCE: He generally does see his doctor on
15 Fridays, so that my fit well.

16 THE COURT: All right. If he's got an appointment the
17 with his doctor on Friday then the doctor may actually see him
18 by Sunday.

19 All right. Anything else we need to take up today?

20 MR. IMPERATORE: Not from the government.

21 MR. BRUCE: No, your Honor. Thank you.

22 MR. BURCK: No, your Honor. Thank you very much.

23 MR. WEINREB: No, your Honor. Thank you very much.

24 (Adjourned)
25